

MEMORANDUM

TO: All Strategic Services Officers,
Chiefs of Missions and List S

SUBJECT: Settlement of Tort Claims and Establishment of
Procedure to be followed in Theaters

1. This memorandum outlines the procedure and policy to be followed in the respective theaters of operation for the investigation, processing, and settlement of tort claims against or filed with OSS. This memorandum does not cover claims for the payment of Workmen's Compensation benefits in cases of disability or death to civilian employees of OSS, resulting from personal injury (including disease proximately caused by the employment) sustained while in the performance of their duties, or claims arising by reason of alleged breaches of contracts entered into by OSS.

2. Types of claims covered include claims of both military and civilian personnel of OSS for property lost, damaged, destroyed, captured, or abandoned; damage to or loss or destruction of property or for personal injury or death caused by OSS personnel in foreign countries; and claims for damage to or loss or destruction of personal property loaned, rented or otherwise bailed to OSS.

II. Disposition of Non-Security Claims

1. Claims occasioned by and claims of Military and Naval personnel of OSS are to be processed in accordance with Army and Navy regulations and are to be referred to appropriate Army and Navy claims representatives in the Theater.

2. Claims by third parties against OSS for acts or omissions of OSS civilian personnel are to be referred to Army claims representatives in the Theater. The Office of the Judge Advocate General, Washington, D. C.

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has indicated its willingness to have such claims referred to its branch offices in the respective Theaters.

3. The procedure outlined above is not available for personnel claims (loss of baggage, etc.) of civilian employees. Such claims are to be processed and investigated in the Theater by OSS and forwarded to the Office of the General Counsel, Washington, for review and transmittal to the General Accounting Office or Congress for appropriate action. Civilian employees of OSS should be urged to carry insurance on their personal effects since applicable statutes and regulations do not presently afford the protection extended Military and Naval personnel. In many instances claims filed with the government by civilian personnel for loss of personal property will be denied by the General Accounting Office.

III. Claims Involving Security Considerations

Security considerations preclude the feasibility of referring through established channels certain claims which otherwise should be processed through regularly established claims offices, including claims of and those occasioned by Army and Navy personnel. When security considerations are involved, claims should be investigated, processed, and in proper instances settled by OSS in the respective Theaters. In the allowance and payment of claims within OSS itself applicable statutes and regulations must be followed since only particular types of claims may be paid under the statutes and pertinent regulations. When claims do not fall within the purview of statutes and regulations, the file should be forwarded to the Office of the General Counsel, Washington, D. C. for review and possible submission of the matter to the General Accounting Office or Congress.

In processing claims within OSS simplicity and uniformity will be achieved by the use of government forms and by the disposition of claims as nearly as possible in accordance with the substantive principles governing the disposition of claims by regularly established claims services.

IV. Detailed Theater Procedure

1. Appointment of Claims Officers

In order to decentralize the handling of claims, there shall be designated by each Strategic Services Officer, a Theater Claims Officer, who should be the Services Officer; if the Services Officer for some reason cannot act, it should be a lawyer or other individual experienced in claims work.

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It should be the duty of the Theater Claims Officer to review, and approve or disapprove, all claims forwarded to him by the commanding officer of the Theater installations.

At each installation of each Theater the commanding officer should appoint a commissioned officer as Local Claims Officer, who preferably, should be a lawyer or other individual with claims experience. It should be the duty of the Local Claims Officer to investigate all accidents, incidents, or conditions likely to result in the filing of claims, regardless of whether any claim may actually have been filed.

Neither the function of Theater Claims Officer nor that of Local Claims Officer should be a full-time assignment except in extraordinary cases.

While the Local and Theater Claims Officers should be charged with the actual processing of claims, ultimate responsibility should rest with the OSS installation and theater commanders. At the same time these commanders would be thus enabled to control the administration of claims within their jurisdictions.

2. Procedural Steps

(a) Non-Security Claims by Third Persons

The claims of third persons occasioned by Army, Navy, Marine, Coast Guard or civilian personnel attached to OSS should be processed by the Army Claims Services in all theaters, excepting naval personnel in the United Kingdom and North Africa. In the United Kingdom and North Africa claims of Navy, Marine and Coast Guard personnel should be referred to the nearest representative of the Navy Claims Commission, and any claim, or report of investigation should, if feasible, be submitted upon Navy Department forms. The Local Claims Officer should investigate the incident or accident, and submit the claim and his report of investigation in triplicate, using War Department forms, through the local security officer and commanding officers to the nearest Army Claims Service representatives. In the event of any doubt on the part of the security or commanding officer as to the security involved, the claim should be forwarded to the Theater Headquarters for decision. A copy of the claim and report should be forwarded through the installation commander, to the Theater Claims Officer and filed in his office. While it would not be necessary in this type of case to make a formal investigation, the local claims officer should do so in the interests of uniformity and overall convenience.

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(b) Non-Security Personnel Claims

Personnel claims (for loss or damage to personal property) of Army personnel should be handled in accordance with the procedure set forth in (a), above, upon the appropriate War Department forms.

The claims of Navy, Marine and Coast Guard personnel should be handled in accordance with the procedure set forth in (a), above, except that the Local Commanding Officer should forward the claim and report of investigation upon Navy Department forms through the Theater Claims and Strategic Services Officers, to the Navy Judge Advocate General, Navy Building, Washington, D. C.

The claims of civilian personnel should be investigated by the Local Claims Officer, and submitted, together with the report, in triplicate to the Local Commanding Officer. The latter then should approve or disapprove the claim and forward the original and one copy to the Theater Claims Officer, who should review it and transmit the original claim and all recommendations to the Office of General Counsel in Washington, by it to be referred to the General Accounting Office or Congress.

(c) Claims Involving Security

The claim should be investigated and forwarded, approved or disapproved, to the Theater Claims Officer, in the same way as non-security personnel claims (paragraph (b) above). The Theater Claims Officer should examine the claim and report and, in claims involving \$100 or less, make final decision as to payment, disapproved claims being returned for further negotiation where feasible. Claims in excess of \$100 should be submitted by the Theater Claims Officer, with recommendation, to the Theater Board of Review, and thence to the Strategic Services Officer, whose decision should be final in claims not in excess of \$5,000. Claims in excess of \$5,000 should be forwarded to the Board of Review, Washington, by the Strategic Services Officer with his approval or disapproval. The Board of Review may then make to the Director such recommendation as it may deem appropriate.

Claims and accompanying reports in amounts less than \$5,000 should likewise be forwarded to the Board of Review, Washington, for informational and record purposes only. If copies only of all claims are retained in the Theater, destruction upon liquidation of the mission will be greatly facilitated.

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(d) Disapproved Claims

Claims disapproved in part should be returned by the approving authority to the Local Claims Officer for further negotiation and then re-submitted to the approving authority. Upon final disapproval of a claim, the claims officer should be advised and he, in turn, should notify the claimant. The claimant should be given no information concerning the progress of his claim until final approval or disapproval.

3. Theater Counsel

In addition to the steps outlined in "2" above, the Theater Counsel should review and approve for legal sufficiency all claims forwarded to the Theater Claims Officer and any other claims which present unusual legal problems. It will be the duty of the Theater Counsel to organize the claims system and closely over-see its operations.

4. Payment

Upon final approval by the appropriate officer of the personnel claim of a civilian employee, or any claim involving security considerations, proper authority for payment should be furnished the disbursing officer nearest the location of the claimant. No claim should be paid in whole or in part until the claimant executes an instrument acknowledging receipt of the payment in full satisfaction for the entire claim and releasing the Government from further liability. The release should be executed in triplicate, forwarded to the Theater Claims Officer in duplicate, and the original to Washington Headquarters.

5. Reports

The Theater Claims Officer should prepare and forward to the Board of Review, Washington, monthly reports of the claims activity in his theater. These reports should contain general observations, comments and recommendations pertaining to the Theater Claims Procedure, and, specifically, information concerning the number and aggregate amounts of claims according to the following categories:

- (a) Cases on hand at beginning of the month.
- (b) New cases during the month.
- (c) Cases forwarded to the nearest Army or Navy Claims Officer.

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- (d) Personnel claims forwarded to the Office of General Counsel, Washington, for reference to the GAO or Congress.
- (e) Claims processed exclusively by OSS and paid in the theater.
- (f) Claims over \$5,000 forwarded to the Board of Review, Washington for approval.
- (g) Cases on hand at end of the month.

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General Counsel

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